

**MEETING OF THE BOARD FOR PROFESSIONAL
ENGINEERS AND LAND SURVEYORS**

**Westin Los Angeles Airport
5400 West Century Boulevard
Los Angeles, California, 90045**

Thursday, November 20, 2008, beginning at 9:00 a.m.

Board Members Present: Patrick Tami, President; Kim Blackseth, Vice President; Gregg Brandow; James Foley; Mike Modugno; Ray Satorre; Jerry Silva; and Michael Trujillo

Board Members Absent: David Luzuriaga

Board Staff Present: Cindi Christenson (Executive Officer); Nancy Eissler (Enforcement Program Manager); Cindy Fernandez (Executive Analyst); Debbie Thompson (Budget Analyst); Gary Duke (Legal Counsel); Laura Freedman-Eidson (Legal Counsel); and Linda Brown (Administration Manager)

1. Roll Call to Establish a Quorum

The meeting was called to order by President Tami at 9:10 a.m. Roll call was taken, and there was a quorum.

Mr. Trujillo arrived at 10:10 a.m.

2. Public Comment

Mr. DeWitt, representing ACEC, stated that ACEC would like to discuss going back to the four-year renewal cycle and would like to put it on a future agenda for further discussion.

Ms. Christenson stated that we will have to look at our budget and see what the cost would be and the financial impact it would have to the Board to do this.

Mr. Foley noted that one of the reasons the Board switched to a two-year renewal cycle was to cut down on the number of delinquent licensees requesting reinstatement.

President Tami directed that this item put on the January 2009 agenda for further discussion.

3. Governor's Press Release Indicating the Need to Increase the Number of Engineers by 20,000, including but not limited to, Early Admission Process to the PE and PLS Examinations (Possible Action)

Ms. Christenson stated that there are concerns regarding the economy taking a turn for the worse and how it will effect this.

Mr. Foley questioned what disciplines make up the "20,000" and what are we responsible for.

Ms. Christenson reported that there are concerns from ACEC-CA and CLSA regarding the Early Admission Process. She suggested the Board hold a panel discussion regarding this process in conjunction with its January 2009 meeting; individuals from other states that have implemented such a process could be invited to participate to describe how it is working in their states, as well as representatives from the professional associations.

President Tami directed staff to coordinate such a panel discussion for the January 2009 meeting.

4. Consideration of Moving Final Filing Dates Forward Two Weeks (Possible Action)

Ms. Christenson reported that Board staff is requesting that the Board consider moving the final filing dates in order to provide more time to process applications. The final filing dates would be moved from 13 weeks to 15 weeks prior to the exam for professional engineering and surveying examinations and from 9 to 11 weeks prior to the exam for the in-training examinations.

The Board has experienced an increase in applications received across all disciplines and this has caused an increased workload. In the past temporary help was used to assist in processing applications and even with this help it was difficult processing applications timely. For instance, some applicants are not notified of eligibility until 2 to 3 weeks before the exam. Currently, the Board's budget is very tight and one area that has been cut is temporary staff. Without this staff to assist with processing applications the current final filing dates will cause more delays and potential errors in processing the applications.

MOTION: Vice President Blackseth/Mr. Foley moved to move final filing date forward Two Weeks.

VOTE: 7-0, motion carried.

5. Fingerprinting Requirement for Applicants and Licensees (Possible Action)

Ms. Christenson reported that as part of its 2003 Sunset Review, the Board recommended that it be given the authority to collect fingerprints from and obtain criminal history information about its applicants and licensees (referred to as a “fingerprint program”). She explained that the Legislature supported the recommendation and included language to enact a fingerprint program in the Board’s Sunset legislation (SB 1547); however, the Department of Finance opposed the proposal due to the costs associated with its implementation and the anticipated need to increase license renewal fees to cover the costs; therefore, the fingerprint program proposal was dropped in 2004.

Ms. Christenson reported that at this time the Board has no fingerprint program at all; applicants and licensees are not required to provide fingerprints to the Board, and the Board is not automatically notified of any criminal history records for its applicants and licensees. She explained that several boards and bureaus have recently been the subject of news articles that were highly critical of the boards’ and bureaus’ implementation of their fingerprint programs. She advised that, because of this, DCA is working with all of the boards and bureaus to sponsor legislation regarding fingerprint programs.

President Tami expressed his concerns about the damage that could be done to the public with no fingerprint program in effect for professional engineers and professional land surveyors.

Mr. Modugno requested an explanation of how the program would work. Mr. Duke, Ms. Eissler, and Ms. Freedman-Eidson provided an overview of the programs of other boards and bureaus in which the applicants and licensees submit fingerprints typically through a computerized system that is linked to the California Department of Justice; the various boards and bureaus that are listed as agencies authorized to receive criminal history reports then receive the initial criminal history report and continue to receive such reports on an on-going basis whenever a new report is generated.

Mr. DeWitt, representing ACEC-CA, indicated that the Executive Committee had met to discuss this proposal and is generally opposed to it due to financial concerns. He indicated that there are also concerns about which crimes are considered substantially related to the professions. He suggested that the renewal form could be modified to have licensees provide a statement indicating whether or not they have had any criminal convictions.

Mr. Modugno questioned what the cost impact would be for such a program. Ms. Eissler explained that the fiscal impact would be analyzed and evaluated as part of the legislative process.

Mr. Silva asked if other boards were pursuing such programs. Ms. Eissler explained that most of the other boards and bureaus already have such programs in place, at least for their applicants. She advised that the Contractors State License Board is currently discussing expanding their program to include all licensees.

MOTION: Mr. Foley/Dr. Brandow moved to seek statutory authority to enact a fingerprint program for applicants and licensees and directs staff to work with DCA and the Legislature, as appropriate, to obtain this authority.

VOTE: 7-0, motion carried.

6. Rulemaking Proposals (Possible Action)

a. Amendments to Board Rules 404, 424, and 460 (Approved Engineering Curricula)

Ms. Eissler presented the information and language contained in the agenda packet. She also explained the rulemaking process, which allows for public comment on the proposed language, and advised that a summary of any comments received and recommended responses, along with the final language, would be presented to the Board at a future meeting.

Dr. Brandow suggested that the language regarding the post-graduate degree needed to be modified because ABET typically does not accredit the engineering curricula of Master's programs. He also suggested including language regarding allowing for ABET-equivalent degrees. Ms. Christenson indicated that the regulations would need to specify from whom the Board would accept the determination that a degree is equivalent.

President Tami advised that ABET had changed its name to ABET, rather than it being an acronym.

MOTION: Mr. Foley/Mr. Satorre moved to direct staff to begin the rulemaking process to amend the Board's regulations to clarify the definitions of approved and non-approved engineering and land surveying curricula as they are used in the Board Rules and to allow for five years of education credit to be granted to professional engineering applicants who have an approved engineering Master's degree (referred to as an "ABET Master's").

VOTE: 7-0, motion carried.

b. Amendments to Board Rule 438 (Waiver of Fundamentals Examination for PhD Holders)

Ms. Eissler presented the information and language contained in the agenda packet. She also explained the rulemaking process, which allows for public comment on the proposed language, and advised that a summary of any comments received and recommended responses, along with the final language, would be presented to the Board at a future meeting.

Dr. Brandow indicated that many states allow for such a waiver. He also suggested including language regarding allowing for ABET-equivalent degrees to this regulation as well.

MOTION: Mr. Modugno/Mr. Foley moved to direct staff to begin the rulemaking process to amend the Board's regulations to allow for the waiver of the fundamentals examinations if the applicant is the holder of a Ph.D. or equivalent degree.

VOTE: 7-0, motion carried.

Mr. Trujillo arrived at 10:10 a.m.

c. Amendments to Board Rule 427.10 (References for Professional Engineers and Land Surveyors)

Ms. Eissler presented the information and language contained in the agenda packet. She also explained the rulemaking process, which allows for public comment on the proposed language, and advised that a summary of any comments received and recommended responses, along with the final language, would be presented to the Board at a future meeting.

Mr. DeWitt questioned who would sign the log book form for land surveying applicants. President Tami explained that it would be signed by the licensee in responsible charge of the applicant's work at the time the applicant gained the experience.

Dr. Brandow suggested modifying the section on the reference forms that asked the reference to indicate whether the applicant is "satisfactory" or "not yet ready" or "excellent" or "very good" in various categories. Mr. Foley recommended that the reference should be asked only if the applicant is ready for licensure.

MOTION: Mr. Satorre/Mr. Foley moved to direct staff to begin the rulemaking process to amend the Board's regulations to update the reference forms submitted with applications for

licensure, including the log book for land surveyor applicants as an optional supplement to the reference form.

VOTE: 8-0, motion carried.

7. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Dr. Brandow/Mr. Silva moved to approve the Delinquent Reinstatements in the agenda as follows:

CIVIL

Gary Emerson Landon

Reinstate applicant's civil license once he takes and passes the Board's Laws and Regulations Examination.

VOTE: 8-0, motion carried.

8. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Mr. Silva/Mr. Foley moved to approve the Handout Comity List.

VOTE: 8-0, motion carried.

MOTION: Mr. Foley/Mr. Satorre moved to grant EIT comity to Brandon Banbury.

VOTE: 8-0, motion carried.

9. Administration

a. Fund Condition

Ms. Thompson gave an update on revenue projections for FY 2008-09 through September 30, 2008. The application revenue is up by approximately 5% as compared to last September's revenue but slightly lower than that projected at the start of the FY. License renewal revenue is down by 15% from last year at this time as expected and consistent with historical revenue patterns for the two-year renewal cycle. The Board's Fund condition revenue projections have been adjusted downward slightly to reflect these changes.

b. FY 2008-09 Budgets

Expense reports through September 30, 2008 show a total FY expense of \$9,537,308 leaving a projected year-end deficit balance of \$141,308. Most of the deficit is for the unexpected \$107,000 proctor separation

payout of benefits required by the Governor's Executive Order #S-09-08. Ms. Thompson pointed out approximately \$310,000 in expenditure cuts have already been made to absorb unfunded expense increases for the Board's national exam population growth and for NCEES exam grading fee increases that took effect October 2008. These include cuts to temporary help, overtime, the newsletter bulletin, update of the Law Publication, shifting a portion of FY 2008-09 exam-related contract expenses from this FY to FY 2009-10, added vacant position salary savings and a cut of non-critical planned equipment purchases.

1) Expenditure Reductions Alternatives, including but not limited to, Not Offering Some Examinations in April 2009 and Enforcement Program Cuts

Ms. Thompson outlined a list of 7 proposed budget cut options to eliminate the \$141,308 deficit. One of the options includes cancellation of the some of the April 2009 national or state exams. The Board is required by law to conduct only one exam administration each year. Because most of the April 2009 exams are also held in October of each year, cancellation of one or more of the April 2009 exams is feasible. The remaining proposed cuts include a cut in the number of exam sites offered, cut the number of Board meetings held, web-conferencing or teleconferencing for exam development meetings, and a cap on the evidence witness payment this FY for enforcement cases. Ms. Christenson added that the Board could also stop processing enforcement cases with the Attorney General's Office.

Mr. Trujillo questioned if an increase in fines or citations would assist in reducing the deficit. Also, Mr. Satorre questioned why the Board could not use its reserve fund. Ms. Thompson explained that the Board has a budget authority limit of \$16,000 in reimbursement revenue received each FY to cover expenses. Use of citation and fine reimbursement revenue received above \$16,000 requires a Budget Revision Request approval. The Board has already requested DCA budget staff to assist in this effort. Regarding Mr. Satorre's question, Ms. Thompson responded that use of additional fund reserve money this FY for unexpected expenses requires a Deficiency Request approval. DCA already notified the Department of Finance earlier this FY that the Board may require a deficiency request due to the proctor payout.

Ms. Christenson pointed out that cancellation of April 2009 Structural Engineering (SE) and Land Surveyor in Training (LSIT) exams will have the least negative economic impact to those seeking licensure. The SE license is a secondary license for those who already have a Civil Engineering (CE) license. A CE can still

practice structural engineering with the exception of schools and hospitals. The LSIT is an entry level classification. These two exams are more costly to the Board than any other exams offered because the applicant fee set by law now does not cover the expenses paid out for them. Ms. Thompson indicated the applicants who already have applied to take the April 2009 SE or LSIT national exams possibly be redirected to states bordering California that offer the same exams in April.

MOTION: Mr. Foley/Mr. Silva moved to approve cancellation of the April 2009 SE and LSIT exams to cut \$100,000 in expenses coupled with a \$40,000 cut in evidence witness payments as needed; and Board staff schedule a meeting with State and Consumer Services Agency and/or Governor's Office staff to seek assistance in avoiding cancellation of the exams.

VOTE: 8-0, motion carried.

c. Land Surveyor Position Redirection

The FY 2008-09 Budget Change Proposal was approved to redirect the Board's operating and expense contract budget authority to personal services to establish the Land Surveyor position effective January 1, 2009. The Senior Engineer Registrar (SER) classification specification amendments are still pending State Personnel Board approval needed to conduct an exam and hire a Land Surveyor into the new Board Registrar position. The SER classification currently allows only a California licensed engineer to be hired and doesn't include requirements for a California licensed land surveyor. Ms. Christenson reported that the delay in obtaining approval may require the existing Land Surveyor contract be extended beyond its March 31, 2009, expiration date to ensure the work is completed.

d. Publication Review

Ms. Eissler reported that staff is finalizing the updates to the Technical Expert Manual and the Guide for Local Officials. She also reported that DCA's Office of Publications will have a printing press available for use in printing these publications January of 2009.

e. FY 2009-10 Budget Change Proposals AND

f. NCEES Exam Fee Pass Through and Exam Administration

The Board's FY 2009-10 BCP to obtain the added budget augmentation to contract with NCEES for exam administration was not moved forward for approval because DCA requested changes to the BCP requiring

applicants pay NCEES directly rather than to the Board first. Since this process requires one to two years' lead time for regulation changes prior to the BCP submittal, the BCP will be held back until regulatory changes are initiated. The BCP's original recommendation was that applicants continue paying the Board under the existing fee structure and the Board pays NCEES for the exam administration, thereby avoiding a cost increase to applicants as NCEES' fees are higher than the Board's fees. The revised fee structure changes, as required for regulatory approval, will be brought to the January 2009 Board meeting for review.

10. Enforcement (Possible Action)

Ms. Eissler reviewed the statistics included in the agenda packet. She noted that more complaint investigation cases have been closed than opened this fiscal year and that the number of cases over a year old has gone down. She also advised that, as of that morning, there are 25 cases awaiting review and approval to close in November. Ms. Eissler noted that it is likely that the processing of cases, especially the cases to be referred to the Attorney General's Office and to experts, will slow down because of the Board's budget situation.

11. Legislative

a. Discussion of Proposed Legislation for 2008, including, but not limited to, AB 1925, AB 2423, AB 2427, AB 2603, AB 2793, SB 963, SB 1312, SB 1494, and SB 1779 (Possible Action)

Ms. Christenson reported that there have not been any significant changes since the September Board meeting.

Ms. Christenson reported that SB 1779 will stay as it was and move forward for next year.

b. Regulation Status Report

No report was given.

12. Technical Advisory Committee TAC Reports

a. Board Assignments to TACs (Possible Action)

The following Board liaison assignments to the TACs were made:

Mr. Modugno and Vice President Blackseth – EE & ME TAC

Mr. Luzuriaga & Mr. Silva – CE TAC

Mr. Foley & Mr. Trujillo – GE TAC

Dr. Brandow & Mr. Trujillo – SE TAC

President Tami & Mr. Satorre – LS TAC

b. Appointment of TAC Members (Possible Action)

No appointments were made.

13. Liaison Reports (Possible Action)

a. ABET

No report was given.

b. NCEES

Will be covered in the President's report.

c. Technical and Professional Societies

No report given.

14. President's Report

President Tami reported that he has requested that Mr. Silva serve as the Board's liaison to work with staff on legislation.

President Tami reported that since the last Board meeting he has been very busy on the Board's behalf. He attended the following functions:

September 29 & 30 – Exam Appeals Grading in Monterey;
October 2-5 – NCEES Orientation in Clemson;
October 8-10 – Exam Development in San Francisco;
October 11 – CLSA Legislative Committee meeting in Sacramento;
October 15 – PACT Summit meeting in Sacramento;
October 26-28 – ABET visit at Cal Poly - San Luis Obispo;
October 30 – CLSA Cascade Chapter meeting;
November 4 – CLSA Mendocino Chapter meeting;
November 6 – CLSA Los Angeles Chapter meeting; and,
November 14-16 – NCEES Board of Directors meeting.

15. Executive Officer's Report

1. Administration Report

a. Executive Summary Report

Ms. Christenson reported that she attended a meeting with the Executive Officers from all 50 States. Several Executive Officers reported that their Out of State Travel has been completely cut out.

2. Personnel

a. New Hires

No new hires.

b. Vacancies

Ms. Christenson reported that there are two vacancies, one in cashiering and one in Exam Development.

Ms. Christenson also reported that Glenda Mathews has retired and her position will be filled.

3. Enforcement/Examination/Licensing

a. College Outreach

Ms. Christenson reported that Ms. Hirano did an Outreach at CSU Chico and CSU Sacramento, and Ms. Christ did an Outreach at San Jose State.

Mr. Moore did a presentation on the Application process for the Sacramento Chapter of CLSA.

b. Report on Examination Activities – October Exam

Ms. Christenson reported that there were 14,600 candidates over a two-day period that tested. Ms. Christenson also reported that the Cal Poly test site went very smooth and that we may look into other colleges for test sites.

President Tami thanked all staff for the great job that they did on the administration of the examinations.

4. Publications/Website

b. Website Activity Statistics

No report given.

5. Other –

a. DCA Update

Ms. Christenson indicated that, as the Board has had to make some very difficult decisions based on the budget situation, it is very important to notify the candidates, NCEES, and other affected parties as to why the decisions were made.

16. Other Items Not Requiring Board Action

Date of Next Board Meeting: January 15 & 16, 2009 or January 22 & 23, 2009, TBD.

Ms. Christenson reported that because of conflicts with schedules, the next Board meeting will need to be changed to January 15 & 16, 2009, in Sacramento.

Ms. Eissler reported that there may be a Petition Hearing at the January Board meeting.

17. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant

to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]

- a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492)
- b. Discrimination Complaint (Authority for Closed Session Discussion pursuant to Government Code section 11126(e)(2)(B)(i))

18. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically: Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492); and the Discrimination Complaint (Authority for Closed Session Discussion pursuant to Government Code section 11126(e)(2)(B)(i))

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the examinations.

Ms. Christenson reported that the Board approved the Appeal Results from the April 2008 examination.

Ms. Christenson reported that the Board adopted the Stipulations regarding Richard Thomas Pretzinger, Jr., and Louis Zehfuss.

19. Approval of Consent Items (Possible Action)

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

- a. Approval of the Minutes of the September 25, 2008, Board Meeting
- b. Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

MOTION: Mr. Satorre/Dr. Brandow moved to approve the consent items.

VOTE: 7-0, motion carried.

20. Adjourn

The Board adjourned at 12:55 p.m.

PUBLIC PRESENT

Pamella Petly, DCA

Bob DeWitt, ACEC-CA

George Heise, CA Fish and Game

G.V. Ayers, Senate B&P Committee

Monica Rea, Governor's Office

Craig Copelan, PECG

Steve Cloke, County of Los Angeles